



PRYOR CASHMAN LLP

410 Park Avenue, New York, NY 10022 Tel: 212-421-4100 Fax: 212-326-0806

New York | Los Angeles

www.pryorcashman.com

Luisa K. Hagemeier
Of Counsel

Direct Tel: 212-326-0877
Direct Fax: 212-798-6354
lhagemeier@pryorcashman.com

RECEIVED
JAN 2 2008

BY FACSIMILE

Honorable Charles L. Breiant
United States Courthouse for the
Southern District of New York
300 Quarrop's Street
White Plains, New York 10601

*Application granted to the extent
that depositions are stayed
pending the Court's decision on
motions to disqualify and for
summary judgment - so ordered
Jan 4, 2008*
Charles L. Breiant *USDS*

Re: KG Cornwall, LLC v. Beazer Homes Corporation, Index No. 07 Civ. 2881

Dear Judge Breiant:

We represent defendant Beazer Homes Corporation (Beazer) in this action, and write respectfully to request that depositions be held in abeyance pending determination of Beazer's motion for disqualification and summary judgment, a courtesy copy of which we delivered to Your Honor last week. The sole reason for deferring the disqualification motion until now was opposing counsel's repeated assurances that it would withdraw voluntarily, which were extant even at the time of the parties' last Court conference on December 7. Unfortunately, counsel has not made good on its assurances.

That KG's counsel, Burton I. Dorfman, Esq., is a key witness in this case, is not even disputed by Mr. Dorfman. Moreover, as shown in Beazer's motion papers, his testimony likely will be prejudicial to KG, thus warranting disqualification of the entire law firm of Dorfman Knoebel & Conway LLP. Under these circumstances, among others discussed in Beazer's motion, it would be improper to proceed with the depositions with KG's current counsel, or at least until the motion is resolved. Notably, one of the scheduled depositions is of Mr. Dorfman himself.

Furthermore, although document discovery is complete, plaintiff has not yet responded to Defendant's First Set of Interrogatories. Beazer would be prejudiced if forced to proceed with the depositions of plaintiff's witnesses without the benefit of these responses.

For these reasons, Beazer respectfully requests that the Court order that depositions not proceed until after Beazer's motions are determined.

Respectfully yours,

Luisa K. Hagemeier
Luisa K. Hagemeier

Enclosures

cc: Kevin Conway, Esq.